

Appl. No. 10/815,254  
Amdt. Dated October 5, 2007  
Reply to Office Action of June 13, 2007

### **REMARKS/ARGUMENTS**

Claims 1-36 are pending in the present application.

This Amendment is in response to the Office Action mailed June 13, 2007. In the Office Action, the Examiner rejected claims 8, 18, 28, and 35 under 35 U.S.C. §102(b); and claims 1-7, 9-17, 19-27, 29-34, and 36 under 35 U.S.C. §103(a). Reconsideration in light of the amendments and remarks made herein is respectfully requested.

#### ***Rejection Under 35 U.S.C. § 102***

In the Office Action, the Examiner rejected claims 8, 18, 28, and 35 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 2003/0007515 issued to Apostolopoulos et al. ("Apostolopoulos"). Applicant respectfully traverses the rejection and submits that the Examiner has not met the burden of establishing a prima facie case of anticipation.

Apostolopoulos discloses a system and method for receiving multiple description media streams in fixed and mobile streaming media systems. A mobile unit 1900 is comprised of a plurality of antennae 1902a and 1902b, which are coupled to a receiver 1904 (Apostolopoulos, paragraph [0186], lines 7-9; Figure 19). The media to be streamed is encoded into two separate complimentary MD bitstreams. The antenna 1902a and 1902b receive a first MD bitstream and a second MD bitstream, respectively. A source control monitor 1916 selectively determines (via switches 1924a and 1924b) whether or not antennae 1902a and 1902b pass any received MD bitstreams to receiver 1904 (Apostolopoulos, paragraph [0189], lines 6-14; Figure 19). The power strength information of the mobile client along with the feedback from synchronization module 1914 helps source control module 1916 decide whether mobile client 1900 should receive various MD bitstreams from single or multiple base stations (Apostolopoulos, paragraph [0190], lines 9-12; Figure 19).

Apostolopoulos does not disclose, either expressly or inherently, at least one of (1) an input/output (I/O) module to receive a stream having a frame from a transmitter over a transmission path, the frame being selected from one of a default stream coded by a multiple description (MD) coding and a restart stream coded by a predictive coding, the default and restart streams corresponding to a media content; (2) a feedback generator coupled to the receiver to

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provide feedback information regarding transmission of the stream to the transmitter; and (3) a decoder coupled to the receiver to decode the stream.

First, Apostolopoulos merely discloses the media being encoded into two separate complementary MD streams (Apostolopoulos, paragraph [0189], lines 4-6), not the frame being selected from one of a default stream coded by a multiple description (MD) coding and a restart stream coded by a predictive coding. The two separate complementary MD streams only correspond to the MD coding. There is no restart stream coded by predictive coding.

Second, the synchronization module 1914 merely monitors the fullness of buffer 1 1906 and buffer N 1908 and the deciding process performed by source control module 1916 (Apostolopoulos, paragraph [0192], lines 2-4), feedback information regarding transmission of the stream to the transmitter. The synchronization module 1914 determines the receiving capability of the buffers to help the source control module 1916 decide whether the mobile client should or should not receive various MD bitstreams (Apostolopoulos, paragraph [0190], lines 8-10). Therefore the information from the synchronization module 1914 is only about the status of the buffers 1906 – 1908 and whether or not they are full. It is not about the transmission of the stream.

Third, the information from the synchronization module 1914 is only sent to, and used by, the source control module 1916 in the mobile receiver unit. It is not sent to, and used by, the transmitter.

To anticipate a claim, the reference must teach every element of the claim. "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." Vergegaal Bros. v. Union Oil Co. of California, 814 F.2d 628, 631, 2 USPQ 2d 1051, 1053 (Fed. Cir. 1987). "The identical invention must be shown in as complete detail as is contained in the...claim." Richardson v. Suzuki Motor Co., 868 F.2d 1226, 1236, 9 USPQ 2d 1913, 1920 (Fed. Cir. 1989). Since the Examiner failed to show that Apostolopoulos teaches or discloses any one of the above elements, the rejection under 35 U.S.C. §102 is improper.

Therefore, Applicant believes that independent claims 8, 18, 28, and 35 and their respective dependent claims are distinguishable over the cited prior art references. Accordingly, Applicant respectfully requests the rejection under 35 U.S.C. §102(b) be withdrawn.

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### ***Rejection Under 35 U.S.C. § 103***

In the Office Action, the Examiner rejected claims 1, 11, 21, and 31 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 4,975,957 issued to Ichikawa et al. ("Ichikawa") in view of U.S. Patent No. 6,665,646 issued to John et al. ("John"); claims 2, 12, 22, and 32 under 35 U.S.C. §103(a) as being unpatentable over Ichikawa and John as applied to claims 1, 11, 21, and 31 above, and further in view of U.S. Patent No. 6,202,108 issued to Autechaud et al. ("Autechaud"); claims 3, 13, 23, and 33 under 35 U.S.C. §103(a) as being unpatentable over Ichikawa, John and Autechaud as applied to claims 2, 12, 22, and 32 above, and further in view of U.S. Patent No. 4,091,447 issued to Dillon et al. ("Dillon"); claims 4, 14, 24, and 34 under 35 U.S.C. §103(a) as being unpatentable over Ichikawa, John, Autechaud, and Dillon as applied to claims 3, 13, 23, and 33 above, and further in view of U.S. Patent No. 4,965,811 issued to Sparks ("Sparks"); claims 5, 15, and 25 under 35 U.S.C. §103(a) as being unpatentable over Ichikawa and John as applied to claims 1, 11, 21, and 31 above, and further in view of U.S. Patent No. 5,928,331 issued to Bushmitch ("Bushmitch"); claims 6, 16, and 26 under 35 U.S.C. §103(a) as being unpatentable over Ichikawa and John as applied to claims 1, 11, 21, and 31 above, and further in view of U.S. Patent No. 6,269,330 issued to Cidon ("Cidon"); claims 7, 17, and 27 under 35 U.S.C. §103(a) as being unpatentable over Ichikawa, John, and Cidon as applied to claims 6, 16, and 26 above, and further in view of U.S. Patent No. 5,251,227 issued to Bruckert et al. ("Bruckert"); claims 9, 19, 29, and 36 under 35 U.S.C. §103(a) as being unpatentable over Apostolopoulos as applied to claims 8, 18, 28, and 35 above, and further in view of U.S. Patent No. 7, 116,714 issued to Hannuksela ("Hannuksela"); and claims 10, 20, and 30 under 35 U.S.C. §103(a) as being unpatentable over Apostolopoulos as applied to claims 8, 18, 28, and 35 above, and further in view of U.S. Patent No. 5,235,595 issued to O'Dowd ("O'Dowd"). Applicant respectfully traverses the rejections and submits that the Examiner has not met the burden of establishing a *prima facie* case of obviousness.

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim

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limitations. *MPEP* §2143, p. 2100-129 (8th Ed., Rev. 2, May 2004). Applicant respectfully submits that there is no suggestion or motivation to combine their teachings, and thus no *prima facie* case of obviousness has been established.

Furthermore, the Supreme Court in *Graham v. John Deere*, 383 U.S. 1, 148 USPQ 459 (1966), stated: "Under §103, the scope and content of the prior art are to be determined; differences between the prior art and the claims at issue are to be ascertained; and the level of ordinary skill in the pertinent art resolved. Against this background, the obviousness or nonobviousness of the subject matter is determined." *MPEP* 2141. In *KSR International Co. vs. Teleflex, Inc.*, 127 S.Ct. 1727 (2007) (Kennedy, J.), the Court explained that "[o]ften, it will be necessary for a court to look to interrelated teachings of multiple patents; the effects of demands known to the design community or present in the marketplace; and the background knowledge possessed by a person having ordinary skill in the art, all in order to determine whether there was an apparent reason to combine the known elements in the fashion claimed by the patent at issue." The Court further required that an explicit analysis for this reason must be made. "[R]ejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness." *KSR* 127 S.Ct. at 1741, quoting *In re Kahn*, 441 F.3d 977, 988 (Fed. Cir. 2006). In the instant case, Applicant respectfully submits that there are significant differences between the cited references and the claimed invention and there is no apparent reason to combine the known elements in the manner as claimed, and thus no *prima facie* case of obviousness has been established.

1. Claims 1, 11, 21, and 31:

Ichikawa discloses a character voice communication system. The system combines voice data communication with character data communication (Ichikawa, col. 1, lines 35-37). A speech input 101 is separated to spectrum envelope information and fine spectrum information by a speech analyzer 102 (Ichikawa, col. 2, lines 45-47). A speech analyzer 102 analyzes speech input and comprises an A/D converter 202, a memory 203 for temporarily buffering the speech input and a digital signal processor (DSP) 204 for processing signals (Ichikawa, col. 3, lines 28-31). A speech recognition unit 110 includes a selector 409 to compare the corrected matching

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values so that a correct recognition result is obtained (Ichikawa, col. 7, lines 43-45; col. 6, lines 6-7; Figure 4).

John discloses a predictive balanced multiple description coder for data compression. The balanced multiple description coder 200 includes a pair of branch coders 210, 220. Each of the branch coders 210, 220 may include a coding chain 230, 240 and a prediction circuit 250, 260 (John, col. 3, lines 33-36).

Ichikawa and John, taken alone or in any combination, do not disclose or render obvious, at least one of: (1) a buffer to store at least a default stream coded by a multiple description (MD) coding and a restart stream coded by a predictive coding, the default and restart streams corresponding to a media content; (2) a selector coupled to the buffer to select a transmit frame from the default and restart streams according to a transmission status, the transmit frame being transmitted to a receiver; and (3) an analyzer coupled to the selector to provide the transmission status based on feedback information provided by the receiver.

Ichikawa merely discloses a buffer 203 to store digitized speech input (Ichikawa, col. 11, lines 50-54), not a default stream coded by a multiple description (MD) coding and a restart stream coded by a predictive coding. The speech input 101 is digitized by the A/D converter 202 and is sent to the input buffer 203. Therefore, the stored data is the raw speech input data, not the coded stream. Furthermore, since the buffer 203 is of two-side structure so that it can hold the next speech input without interruption during the encoding of the current input speech (Ichikawa, col. 11, lines 50-54), there cannot be an encoder to encode the speech data before sending to the buffer 203.

In addition, Ichikawa merely discloses a selector 409 to compare the corrected matching values (Ichikawa, col. 7, lines 43-45), not to select a transmit frame from the default and restart streams. The corrected matching values correspond to the outputs of the pitch corrector 402 and/or the format selector 406 (Ichikawa, col. 7, lines 27-29). Accordingly, they are not related to the default and restart streams.

Furthermore, Ichikawa merely discloses a speech analyzer 102 to analyze the speech input using the digitized speech input (Ichikawa, col. 3, lines 28-31), not to provide the transmission status based on feedback information provided by the receiver. As shown in Figures 1 and 2, the speech analyzer 102 is interfaced only to the speech input 101 and the

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display 114. Accordingly, it does not provide a transmission status based on feedback information provided by the receiver.

Moreover, John merely discloses a balanced multiple description coder 200 including a pair of branch coders 210, 220 (John, col. 3, lines 33-36), not a default stream coded by a multiple description (MD) coding and a restart stream coded by a predictive coding. The two coding branches are similar and are based on balanced multiple descriptive coder (John, col. 4, lines 8-9; lines 59-61). None of them provides at least a restart stream.

2. Claims 2, 12, 22, and 32:

Ichikawa and John are discussed above.

Autechaud discloses a process and system for initializing a serial link between two integrate circuits comprising a parallel-serial port using two clocks with different frequencies. In case of a calibration loss resulting from a bad reception through the serial link, the system will propagate this error in the port located at the other end of the link and will restart with an initialization procedure on a normal basis (Autechaud, col. 12, lines 53-56).

Ichikawa, John, and Autechaud, taken alone or in any combination, do not disclose or render obvious, at least one of elements (1) through (3) above, and (4) the transmission status is one of a normal condition and a restart condition, the restart condition indicating that there is a frame loss in a description stream of the default stream and that it is time to transmit a frame from the description stream having the frame loss, as recited in claims 2, 12, 22, and 32.

As discussed above, Ichikawa and John, taken alone or in combination, do not disclose or render obvious elements (1) through (3). Accordingly, a combination of Ichikawa and John with any other reference(s) in rejecting claims 2, 12, 22, and 32, which depend on claims 1, 11, 21, and 31, respectively, is improper.

Furthermore, Autechaud merely discloses restarting the serial link with an initialization procedure on a normal basis (Autechaud, col. 12, lines 53-56), not a normal condition and a restart condition of the transmission status. The restart is performed due to a bad reception through a serial link, not a transmission status. Moreover, the restart uses an initialization procedure. An initialization procedure merely involves initializing all the parameters and variables. Therefore it does not indicate that there is a frame loss or it is time to transmit a frame from the description stream having the frame loss.

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3. Claims 3, 13, 23, and 33:

Ichikawa, John, and Autechaud are discussed above.

Dillon discloses an interrupt control system for a microcomputer. Interrupt pulses 35(a-d) are serviced in the interrupt instruction generator. A low going pulse on one of lines 35a-d causes a binary number to generate a no-operation instruction or a restart instruction depending on the state of line 40 (Dillon, col. 8, lines 36-45). Line 40 goes low whenever any of lines 35a-d goes low. Whenever line 40 is low, data selectors 38 select the restart instruction; otherwise the no-operation instruction is selected (Dillon, col. 8, lines 56-59).

Ichikawa, John, Autechaud, and Dillon, taken alone or in any combination, do not disclose or render obvious, at least one of elements (1) through (4) above, and (5) the selector selects the transmit frame from the restart stream when the transmission status is the restart condition, as recited in claims 3, 13, 23, and 33.

As discussed above, Ichikawa, John, and Autechaud, taken alone or in combination, do not disclose or render obvious elements (1) through (4). Accordingly, a combination of Ichikawa, John, and Autechaud with any other reference(s) in rejecting claims 3, 13, 23, and 33, which depend on claims 1, 11, 21, and 31, respectively, is improper.

Furthermore, Dillon merely discloses a circuit having a data selectors 38 to select the restart instruction (Dillon, col. 8, lines 56-59), not selecting the transmit frame from the restart stream when the transmission status is the restart condition. A restart instruction is an instruction to restart a microprocessor. It does not select a frame from the restart stream.

Moreover, Dillon merely discloses a hardware circuit to process interrupts which are not related to media transmission. Therefore, Dillon represents a non-analogous art. Persons skilled in the art of media transmission would not consult hardware circuits for microprocessor interrupts.

4. Claims 4, 14, 24, and 34:

Ichikawa, John, Autechaud, and Dillon are discussed above.

Sparks discloses an adaptive timing. The technique is apparatus for transmitting digital signals by way of a transmit path to one or more terminal equipments, and for receiving digital signals by way of a shared receive path from such terminal equipments (Sparks, col. 2, lines 31-36). A "select" signal enables a "default" phase delayed SCLK to be used when no transmit

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signal is present (Sparks, col. 15, lines 11-12). If the frame marker zero crossing is found to occur in the range of 40 microseconds after the transmit frame marker, for both point-to-point and extended passive bus configurations, this circuit would select the 67.5% phase delayed clock for SCLK which would yield a valid sampling point for the received eyes (Sparks, col. 15, line 68; col. 16, lines 1-5).

Ichikawa, John, Autechaud, Dillon, and Sparks, taken alone or in any combination, do not disclose or render obvious, at least one of elements (1) through (5) above, and (6) the selector selects the default stream after the transmit frame is transmitted, as recited in claims 4, 14, 24, and 34.

As discussed above, Ichikawa, John, Autechaud, and Dillon, taken alone or in combination, do not disclose or render obvious elements (1) through (5). Accordingly, a combination of Ichikawa, John, Autechaud, and Dillon with any other reference(s) in rejecting claims 4, 14, 24, and 34, which depend on claims 1, 11, 21, and 31, respectively, is improper.

Furthermore, Sparks merely discloses a select signal enabling a default phase delayed SCLK to be used when no transmit signal is present (Sparks, col. 15, lines 11-12), not selecting the default stream after the transmit frame is transmitted. A default phase delayed SCLK is a clock signal delayed by some amount. It is not a default stream. Also, the default phase delayed SCLK is used when no transmit signal is present, not after the transmit frame is transmitted.

Moreover, Sparks merely discloses the selector selects the 67.5% phase delayed clock for SCLK if the frame marker zero crossing is found to occur in the range of 40 microseconds after the transmit frame marker (Sparks, col. 15, line 68; col. 16, lines 1-5). It is the time offset (e.g., 40 microseconds) between the zero crossing and the frame marker that causes the selection of the phase delayed clock, not the time after the transmit frame is transmitted.

5. Claims 5, 15, and 25:

Ichikawa and John are discussed above.

Bushmitch discloses a distributed internet protocol-based real-time multimedia streaming architecture. The multiple description coding splits the video and/or audio stream into substreams called components. Each component can then be coded and transmitted over the network independently from all other components (Bushmitch, col. 3, lines 39-41).



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Ichikawa, John, and Bushmitch, taken alone or in any combination, do not disclose or render obvious, at least one of elements (1) through (3) above, and (7) the default stream includes a plurality of description streams that are independently encoded, as recited in claims 5, 15, and 25.

As discussed above, Ichikawa and John, taken alone or in combination, do not disclose or render obvious elements (1) through (3). Accordingly, a combination of Ichikawa and John with any other reference(s) in rejecting claims 5, 15, and 25, which depend on claims 1, 11, and 21, respectively, is improper.

Furthermore, Bushmitch merely discloses each component being coded and transmitted over the network independently from all other components (Bushmitch, col. 3, lines 39-41), not a default stream. The coding and transmission of the components may not form a default stream stored in a buffer together with a restart stream.

6. Claims 6, 16, and 26:

Ichikawa and John are discussed above.

Cidon discloses a fault location and performance testing of communication networks. An analyzer 62 comprises a network interface 150 which connects to a port 30 of network 20 and receives packets therefrom (Cidon, col. 14, lines 51-53). A network interface 150 receives packets and/or connection establishment requests from network 20. Preferably, network interface 150 determines parameters of each of the received packets, which parameters may include arrival time, identity of the sending generator 60, packet type, packet length, sequence number and the dedicated test information in the payload section of the packet (Cidon, col. 14, lines 53-60). The analyzer 62 preferably comprises a connection table 154 which contains, for each received connection or stream of packets, an entry which summarizes information pertaining to the connection or stream (Cidon, col. 14, lines 64-67).

Ichikawa, John, and Cidon, taken alone or in any combination, do not disclose or render obvious, at least one of elements (1) through (3) above, and (8a) a delay tracker to track delay characteristics of a transmission path; and (8b) a probe tracker to keep track of probing packet to be sent over a transmission path to provide path statistics, as recited in claims 6, 16, and 26.

As discussed above, Ichikawa and John, taken alone or in combination, do not disclose or render obvious elements (1) through (3). Accordingly, a combination of Ichikawa and John

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with any other reference(s) in rejecting claims 6, 16, and 26, which depend on claims 1, 11, and 21, respectively, is improper.

Furthermore, Cidon merely discloses a network interface 150 receiving packets (Cidon, col. 14, lines 52-53), not a probe tracker to keep track of probing packet to be sent over a transmission path to provide path statistics. The network interface 150 determines parameters of the received packets (Cidon, col. 14, lines 56-57). Therefore, it cannot keep track of probing packet to be sent over a transmission path.

Moreover, Cidon merely discloses a connection table 154 which contains entries summarizing information pertaining to the connection or stream (Cidon, col. 14, lines 64-67), not a delay tracker to track delay characteristics of a transmission path. Since the traffic analyzer works with received packets, it cannot keep track of information relating to the transmission path. Also, information pertaining to the connection or stream is not related to the delay characteristics.

**7. Claims 7, 17, and 27:**

Ichikawa, John, and Cidon are discussed above.

Bruckert discloses targeted resets in a data processor including a trace memory to store transactions. A processing system 20 includes I/O modules 100, 110, and 120 (Bruckert, col. 4, lines 36-37). Each of the module interconnects is received by firewalls 1000 and 1010 (Bruckert, col. 25, lines 60-61).

Ichikawa, John, Cidon, and Bruckert, taken alone or in any combination, do not disclose or render obvious, at least one of elements (1) through (3) above, and (9) an input/output (I/O) module coupled to the selector to transmit the default stream or the restart stream and the probing packets over a transmission path according to the delay characteristics or the path statistics, as recited in claims 7, 17, and 27.

As discussed above, Ichikawa, John, and Cidon, taken alone or in combination, do not disclose or render obvious elements (1) through (3), and (8a)-(8b). Accordingly, a combination of Ichikawa, John, and Cidon with any other reference(s) in rejecting claims 7, 17, and 27, which depend on claims 1, 11, and 21, respectively, is improper.

Furthermore, Bruckert merely discloses an I/O module which contains components used in a computer system such as firewalls, error detection generator, DMA control, RAM, etc.

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(Bruckert, col. 25, lines 61-62; col. 26, lines 10-14; col. 26, lines 32-36; Figure 17). None of these is related to transmit the default stream or the restart stream and the probing packets over a transmission path according to the delay characteristics or the path statistics. As shown in Figure 4, the I/O module has no interface to a transmission path. Therefore, it cannot transmit packets over a transmission path.

8. Claims 9, 19, 29, and 36:

Apostolopoulos is discussed above under the 35 U.S.C. §102(b) rejection.

Hannuksela discloses video coding. Error concealment refers to the process of concealing the effects of transmission errors so that they are hardly visible in the reconstructed video sequence (Hannuksela, col. 2, lines 45-47).

Apostolopoulos and Hannuksela, taken alone or in combination, do not disclose or render obvious, at least one of (1) an input/output (I/O) module to receive a stream having a frame from a transmitter over a transmission path, the frame being selected from one of a default stream coded by a multiple description (MD) coding and a restart stream coded by a predictive coding, the default and restart streams corresponding to a media content; (2) a feedback generator coupled to the receiver to provide feedback information regarding transmission of the stream to the transmitter; (3) a decoder coupled to the receiver to decode the stream; and (4) an error concealer to conceal error caused by packet loss.

As discussed above, Apostolopoulos does not disclose or render obvious elements (1) through (3) above. Accordingly, a combination of Apostolopoulos with any other reference(s) in rejecting claims 9, 19, 29, and 36, which depend on claims 8, 18, 28, and 35, respectively, is improper.

Furthermore, Hannuksela merely discloses a general definition of an error concealer, not a concealer to conceal error caused by packet loss. Moreover, Hannuksela merely discloses concealing the effects of transmission errors, not to conceal error caused by packet loss. The concealer as claimed is part of a receiver and not a transmitter.

9. Claims 10, 20, and 30:

Apostolopoulos is discussed above under the 35 U.S.C. §102(b) rejection.

O'Dowd discloses packet switching. The functions involved include: packeting the message and appending the correct control and address information; putting the packet onto each

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successive link enroute to its destination without collision with other packets (or, if there is collision, recovering from it; checking and re-routing it at each switch; checking it for validity and sequence, and re-ordering it if necessary (at least at the destination if not at every switch); acknowledging each correct packet and requesting missing, corrupted or out-of-sequence packets to be re-transmitted; retransmitting missing or corrupted packets and fitting them into place; and depacketing the data to re-create the original message (O'Dowd, col. 1, lines 55-68).

Apostolopoulos and O'Dowd, taken alone or in combination, do not disclose or render obvious, at least one of (1) an input/output (I/O) module to receive a stream having a frame from a transmitter over a transmission path, the frame being selected from one of a default stream coded by a multiple description (MD) coding and a restart stream coded by a predictive coding, the default and restart streams corresponding to a media content; (2) a feedback generator coupled to the receiver to provide feedback information regarding transmission of the stream to the transmitter; (3) a decoder coupled to the receiver to decode the stream; and (4) the I/O module sends an acknowledgment over the transmission path when the stream is received, as recited in claims 10, 20, and 30.

As discussed above, Apostolopoulos does not disclose or render obvious elements (1) through (3) above. Accordingly, a combination of Apostolopoulos with any other reference(s) in rejecting claims 10, 20, and 30, which depend on claims 8, 18, and 28, respectively, is improper.

Furthermore, O'Dowd merely discloses I/O functions including acknowledging each correct packet (O'Dowd, col. 1, lines 63-64), not sends an acknowledgment over the transmission path when the stream is received. O'Dowd specifically discloses acknowledging each correct packet (O'Dowd, col. 1, lines 63-64). In other words, the acknowledgement is made only when the packet is correct, not when the stream is received.

Ichikawa, John, Autechaud, Dillon, Sparks, Bushmitch, Cidon, Bruckert, Hannuksela, and O'Dowd, taken alone or in any combination, do not disclose or render obvious, any one of the above elements.

The Examiner failed to establish a prima facie case of obviousness and failed to show there is teaching, suggestion, or motivation to combine the references. When applying 35 U.S.C. 103, the following tenets of patent law must be adhered to: (A) The claimed invention must be considered as a whole; (B) The references must be considered as a whole and must suggest the

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desirability and thus the obviousness of making the combination; (C) The references must be viewed without the benefit of impermissible hindsight vision afforded by the claimed invention; and (D) Reasonable expectation of success is the standard with which obviousness is determined. Hodosh v. Block Drug Co., Inc., 786 F.2d 1136, 1143 n.5, 229 USPQ 182, 187 n.5 (Fed. Cir. 1986). "When determining the patentability of a claimed invention which combined two known elements, 'the question is whether there is something in the prior art as a whole suggest the desirability, and thus the obviousness, of making the combination.'" In re Beattie, 974 F.2d 1309, 1312 (Fed. Cir. 1992), 24 USPQ2d 1040; Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co., 730 F.2d 1452, 1462, 221 USPQ (BNA) 481, 488 (Fed. Cir. 1984). To defeat patentability based on obviousness, the suggestion to make the new product having the claimed characteristics must come from the prior art, not from the hindsight knowledge of the invention. Interconnect Planning Corp. v. Feil, 744 F.2d 1132, 1143, 227 USPQ (BNA) 543, 551 (Fed. Cir. 1985). To prevent the use of hindsight based on the invention to defeat patentability of the invention, this court requires the Examiner to show a motivation to combine the references that create the case of obviousness. In other words, the Examiner must show reasons that a skilled artisan, confronted with the same problems as the inventor and with no knowledge of the claimed invention, would select the prior elements from the cited prior references for combination in the manner claimed. In re Rouffet, 149 F.3d 1350 (Fed. Cir. 1996), 47 USPQ 2d (BNA) 1453. "To support the conclusion that the claimed invention is directed to obvious subject matter, either the references must expressly or implicitly suggest the claimed invention or the Examiner must present a convincing line of reasoning as to why the artisan would have found the claimed invention to have been obvious in light of the teachings of the references." Ex parte Clapp, 227 USPQ 972, 973. (Bd.Pat.App.&Inter. 1985). The mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination. In re Mills, 916 F.2d 680, 16 USPQ2d 1430 (Fed. Cir. 1990). Furthermore, although a prior art device "may be capable of being modified to run the way the apparatus is claimed, there must be a suggestion or motivation in the reference to do so." In re Mills 916 F.2d at 682, 16 USPQ2d at 1432; In re Fritch, 972 F.2d 1260 (Fed. Cir. 1992), 23 USPQ2d 1780.

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Moreover, the Examiner failed to establish the factual inquires in the three-pronged test as required by the *Graham* factual inquires. There are significant differences between the cited references and the claimed invention as discussed above. Furthermore, the Examiner has not made an explicit analysis on the apparent reason to combine the known elements in the fashion in the claimed invention. Accordingly, there is no apparent reason to combine the teachings of Ichikawa, John, Autechaud, Dillon, Sparks, Bushmitch, Cidon, Bruckert, Hannuksela, and O'Dowd.

In the present invention, the cited references do not expressly or implicitly disclose any of the above elements. In addition, the Examiner failed to present a convincing line of reasoning as to why a combination of Ichikawa, John, Autechaud, Dillon, Sparks, Bushmitch, Cidon, Bruckert, Hannuksela, and O'Dowd is an obvious application of multimedia content delivery using pre-stored MDC video with restart, or an explicit analysis on the apparent reason to combine Ichikawa, John, Autechaud, Dillon, Sparks, Bushmitch, Cidon, Bruckert, Hannuksela, and O'Dowd in the manner as claimed.

Therefore, Applicant believes that independent claims 1, 8, 11, 21, 28, 31, and 35 and their respective dependent claims are distinguishable over the cited prior art references. Accordingly, Applicant respectfully requests the rejection under 35 U.S.C. §103(a) be withdrawn.

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### Conclusion

Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP

Dated: October 5, 2007

By

  
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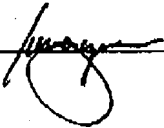
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